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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/109,830 07/02/98 KENNELLY

J KE27-001

EXAMINER
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021567 OM12/0410  
WELLS ST JOHN ROBERTS GREGORY AND MATKIN  
SUITE 1300  
601 W FIRST AVENUE  
SPOKANE WA 99201-3828

DEXTER, C	
ART UNIT	PAPER NUMBER

3724  
DATE MAILED:

*19*  
04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/109,830**

Applicant(s)  
**Kennelly et al.**

Examiner  
**Clark F. Dexter**

Group Art Unit  
**3724**



☒ Responsive to communication(s) filed on Jan 22, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) 5, 6, 13, 14, and 18 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-4, 7-12, and 15-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Jan 22, 2001 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. The amendment filed January 22, 2001 has been entered.

#### ***Drawings***

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 22, 2001 have been **approved**. It is noted that the proposed changes to drawing pages 1, 3 and 6 have been marked "not approved" because the copies previously submitted on April 24, 2000 (paper #9) have already been approved.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiley.

Wiley discloses a fence, and a fence and cutting table with every structural limitation of the claimed invention including a pair of elongated guide rails (e.g., 132) with a pair of sprockets mounted thereon; an elongated cutting guide (e.g., 23); motion conditioning members/endless

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chains (e.g., 148) including a movable working flight (e.g., the top portion of 148 which extends between sprockets 150 and 152); aligning lugs (e.g., 146) releasably interconnecting the cutting guide to the working flights for movement therewith; a locking mechanism (e.g., 155); and base blocks (e.g., 142, 144).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4, 8, 9, 10, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley.

Regarding claims 8 and 16, Wiley discloses a fence, and a fence and cutting table with almost every structural limitation of the claimed invention but lacks a chain-receiving groove in the base blocks. However, the Examiner takes Official notice that it is old and well known in the

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art to provide additional structure, such as a bracket which extends from each end plate, across the chain and down the inside of the chain, for various known reasons including additional structural stability. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a bracket thus forming a chain-receiving groove in the base blocks for the well known benefits including that described above (it is noted that such a configuration would result in the aligning lug being disposed within the chain-receiving groove).

Regarding claims 4, 9, 10, 12 and 17, Wiley lacks a lug adjustor. However, the Examiner takes Official notice that it is old and well known in the art to adjustably mount connecting members to finely adjust one member with respect to another for various reasons including to make adjustments due to changes caused by environment, temperature, etc., and to reduce required manufacturing tolerances. Therefore, it would have been obvious to one having ordinary skill in the art to provide a lug adjustor on the device of Wiley for the well known benefits including those described above.

### ***Response to Arguments***

7. Applicant's arguments filed January 22, 2001 have been fully considered but they are not persuasive.

On pages 4 and 5 of the amendment, applicant argues that the pins of Wiley releasably interconnect the cutting guide to the working flights and suggests that this connection is permanent. However, the Examiner respectfully submits that these pins are removable using the

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broadest reasonable interpretation of “releasable” in that they may be disconnected by unscrewing them or otherwise unfastening them from the chain thus facilitating disassembly for repair/replacement of the chain and/or cutting guide.

In the paragraph bridging pages 4 and 5 of the amendment, applicant argues that the cutting guide is permanently attached and discusses the special provision for moving the cutting guide out of the way. However, it is respectfully submitted that the Examiner’s position is not that the cutting guide is as easily or quickly releasable in the same manner as the present invention. Rather, the Examiner’s position is that the cutting guide is releasable in the broadest sense and thus Wiley discloses the claimed invention.

In the second paragraph on page 5 of the amendment, applicant argues that the perpendicular orientation as well as other directional aspects of the aligning lugs are not shown by Wiley. The Examiner respectfully disagrees since it is clear that the pins of Wiley extend in the claimed directions, specifically “toward the working flight”, “normal to the working flight”, and “toward the planar top surface”.

In the third paragraph on page 5 of the amendment, applicant argues that “the cutting guides remain connected to the chains and there is no teaching or suggestion of removability.” Again, it is respectfully submitted that the Examiner’s position is not that the cutting guides of Wiley are releasably attached in the same manner as the present invention. Rather, the Examiner’s position is merely that they are releasably attached.

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***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cf  
April 9, 2001